

Town of Richmond
Planning Board Public Meeting
October 1, 2013 7:30 PM Richmond Town Hall

Members Present:

Rick Lewis, Chair
Lloyd Condon, Vice Chair
Deb Duffy, Secretary
Richard Drew
Jon Pratt
Butch Morin, Alternate
Wes Vaughan, Alternate

Members Absent:

Debra Boncal, Selectman Rep
Norma Thibodeau

Public: Sandy Perry and Sandra Gillis.

Meeting called to order @ 7:30.

Butch Morin seated for Norma Thibodeau.

1. Public:

a. Licensing Junkyards:

Sandra Gillis came in to discuss information on Licensing Junkyards and asked the Planning Board members to please review the information which includes: Junkyard License Application, Compliance Certification Application and Renewal Application. The License Application is 9 pages long and much of it covers some items this should be addressed during a site plan review.

The information was taken directly out of the State Junkyard RSA and the documents are provided from the state level. RSA 236:111 Motor Vehicle Recycling and Yards and Junk Yards, more specific RSA 236:115.

Question asked about the junkyards in town and are they not allowed per our Zoning 303 and the definition in Article 16, 1629.

303 Junk Junkyards or any place for the storage or keeping of junk, as defined in Article 16, are not permitted in the Town of Richmond. [Rev- March 12, 2013]

1629 Junk – As defined by RSA 236:112, junk includes old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel, or other old or scrap ferrous or nonferrous material. [Rev- March 12, 2013]

Richmond has 2 Junkyards that were granted a variance 20 years ago with limitations. Both of those two junkyards have expanded their operations beyond the variance they were granted. The goal is to begin the licensing process for one's that presently have a variance they've outgrown, then expand the process to include what seems like junkyards but they have no prior paperwork to allow them to be present. Then expand to junk dealers, try to recognize that they are a business and get them into the process.

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The Selectmen have intentions of licensing only areas that meet the full definition of junkyard as presented in our Zoning Ordinances. The process will hopefully envelope junky yards at some point and even if they trade or sell their items it's still important to get them recognized as a business. .

b. John Wahl Excavation discussion:

John Wahl came into the Selectman's meeting on Monday Sept. 30, 2013 as requested by the Selectmen in their letter to him dated Sept. 23, 2013. Mr. Wahl filed an application for an Intent to Excavate with the Selectmen's secretary. The application will be reviewed by the Selectmen at their October 7, meeting and then sent onto the State for their decision.

Mr. Wahl claimed he was told through the State of NH that he didn't need a permit if he was disturbing less than 100,000 sq. ft.. Mr. Wahl talked about an alteration of terrain permit not an intent to excavate. Mary Pinkham Langer responded to the Selectmen asking her why there was discrepancies between interpretations of the state vs. the town. Ms. Langer explained that the person Mr. Wahl spoke does not work for the Dept. of Revenue but rather for the Department of Environmental Services (DES). He was referring to acquiring a DES permit if less than 100,000 sq. ft. were being disturbed.

Mr. Wahl does estimate more than 1000 cubic feet have left the site which would include loam, stone, sand and fill. He is also claiming that under 155-E:2-b it is tax exempt if it is incidental to agricultural or silvicultural activities. He believes he will be exempt from getting a permit under that RSA. as he is creating hay fields. It was a consensus of the board to be included in the permitting process.

c. Bannister:

Mr. Bannister is located on Rt. 32 South, he purchased a piece of property from Elmer E. and Hazel G. Thresher. With Planning Board approval in 1978 the Threshers subdivided their property into two lots one lot is larger and the second is a two acre piece. The property was surveyed by William P. House, dated November 11, 1978 and approved by the Planning Board November 29, 1978 and recorded December 5, 1978 in Plan Book 42, Page 008.

At the time there was a .33 acre lot created that was 66 feet wide and 200 feet long. The Planning Board minutes say: *Motion by B. Mahoney seconded by G. Blais to approve the request for subdivision by Elmer Thresher of his property on the West of Rt. 32 just south of the four corners as presented in the final Platt. Approval creates a privately owned public right a way 66 feet wide and running westerly along rt. 32 for 200 feet. Motion carries.*

The .33 acre basically created a private road. It does say that it is intended to be deeded to the Town of Richmond. But, it is believed that this was a subdivision road and it created frontage for the subdivision.

Then in 1993 a quitclaim deed submitted by Elmer Thresher granted the Town of Richmond a municipal corporation duly organized under the laws of the State of NH for consideration paid. The Town apparently took the quitclaim as they signed it and so the town now owns the piece of property. *With accepting and reserving to the owners their successors and or signs of tract one and tract two as shown on the at fore said Platt a perpetual right and easement over, under and upon said tract 3 on foot with vehicles or otherwise.* It is presumed that the road is dedicated as a road with hopes that it will be accepted as a town road. It is recognized that unless it was laid out as a town road and voted at a town meeting it is not a town road. The town never accepted this right away as a road and it appears to be clearly a driveway. By virtue of taking the deed as "consideration paid" it made that 200 ft. section a class 5 road in 1993. The Selectmen have discussed this with the Town Lawyer. It is a town road because RSA 229:1 states that

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this is how highways are created, by paths over town owned property. However, no one maintained that section of road as a class 5 road. It's clear that after 5 yrs. and it's been 20 yrs. it lapses to a class 6 road. Maintenance is not an issue but rights to pass and re-pass need to be extinguished, the land in the back could have a lot line adjustment and that portion of the class 6 road would now become totally their driveway. Purchase would be "consideration paid".

Question that the lot was created to provide frontage to produce the back lot. So when you merge and eliminate that frontage you are creating a lot that has less frontage and is ultimately now less conforming to the ordinance then it was. Should this not go to the Zoning Board of Adjustments and ask for a variance. This is a clear hardship for the land owners. The smaller lot gains frontage from the road presently.

2. Mail:

Southwest Region Planning Commission's Fall meeting will be held at The Inn at East Hill Farm in Troy, on Tuesday, October 15, 2013. Cost is \$10.00. Butch Morin will be representing Richmond.

3. Minutes September 17, 2013:

Motion made by Richard Drew to accept the minute's as recorded. Seconded by Deb Duffy. Five in favor. One abstention. Motion carries.

4. John Wahl Excavation discussion:

Update given by Sandra Gillis. It was asked how many acres were affected by the excavation. It was guessed that 400 X 250 which is 1000 sq. feet? It was the hope that Mr. Wahl would have come in front of the Planning Board and not the State of NH this would allow the Planning Board to make the decision not the land owner.

It was suggested that the Board may want to create and accept more complete Zoning involving Excavation as there isn't much offered in the present Zoning and the land owner felt he had to go to the State to answer his questions. a This was brought to the Selectman's attention and it's believed nothing was done. So the land owner assumed it was OK.

5. Application, permit and checklist to excavate:

Richard Drew produced a copy of an Excavation Application and Checklist that the Planning Board approved November 8, 2006. It was decided not to do use the new layout and keep the documents that were approved in 2006. The only piece missing is the permit which will be added to the present documents. Concern that the approved application for excavation does not allow a spot for the person doing the excavation work to add their contact information. It was the consensus of the board that the information was not needed.

6. Numbering Subdivision Lots:

Motion made by Richard Drew to accept the Numbering of Subdivisions policy as presented. Seconded by Lloyd Condon. All in Favor. None opposed. Motions carries.

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7. Capital Improvement Plan Update:

Chair Lewis sign the appointment for Wes Vaughan to represent the Richmond Planning Board for a year on the Capital Improvement Committee. Notation was made to revisit this appointment Sept. 30, 2014.

8. Other:

a. Cluster housing:

Updated Zoning passed in March 2013 other than the Cluster Housing. The lay out of Cluster Housing was very complicated and difficult to follow. The few that have been done in town still have lots for sale. Most people moving to a secluded town like Richmond move for privacy and larger lots. There seems to be no real attraction to smaller lots surrounded by common land. Cluster housing information will be sent to the board members.

b. Aquifer Protection:

The town declared an Aquifer District, implemented Best Management Practices and definitions with a ballot vote. It was the consensus of the Board to leave the Aquifer District as it is.

c. House keeping:

Change the set backs in the present Zoning as it was missed for the 2013 ballot, this is strictly for house keeping.

d. Decision on Excavation permitting process:

Board needs to decide if they're going to be the regulator and issue the permit for excavation or if they'll ask through a warrant to allow the Selectmen to handle the permitting process since they are considered the enforcers. The Board had discussed keeping the site plan review with the board and then had the regulation portion or the permit over to the Selectmen. The actual enforcement should be with the Selectmen since the Planning Board has no authority over any enforcement. Every time the Board needs something they have to ask the Selectmen so it appears that this creates an extra step.

Point was given that the Selectmen expressed their opinion that they didn't feel comfortable issuing the Permit as they don't have the knowledge and back ground on the site plan that the Planning Board members would have. The recommendation would come from the Planning Board for the time frame on the permit. The Selectmen's office is open 4 days a week the Planning Board meets twice a month. It was felt if there was a problem the Planning Board could take 4 weeks to make a decision.

The question to ask is who has the expertise to issue the permit and to know what needs to be inspected and in what order. The Selectmen haven't reviewed, walked or created any of the conditions. It was the Selectmen's thought that the report from the inspector would come directly to the Land Use folder and then the next meeting of the Planning Board it would be given to the Planning Board who are the regulators. At this time the board would review the plan which they are all very educated about since the board did the public hearings, site walk, created conditions and signed the final plans. At this time if a condition isn't be complied with the Planning Board will write a letter to the land owner and the Selectmen asking for compliance. If it's not followed through immediately by the applicant the Selectmen then become the enforcer and start legal action. It would be quicker for the Planning Board to get the reports and sit down that meeting if there is a problem the concern will be moved to the Selectmen if not then things just continue along smoothly.

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It was a consensus of the Planning Board that the permitting process for Excavations in town would stay with the Planning Board as the regulators.

It was suggested to create a procedure policy between the Select board and the Planning Board as to who would do the permitting process.

e. Map 405 Lot 51:

Sharon Monahan from Peterborough who is designing a septic system for Map 405 Lot 51. She can meet the state set backs but not local zoning set backs. What would be her next step to continue to the Zoning Board of Adjustments. It was suggested to start at the Selectmen's office to receive a denial and then move onto the ZBA for a variance.

f. Master Plan:

There are seven sections to the Master Plan and it's the Planning Board intent to review and update a section every year. It has been several years and the Board hasn't updated any sections. The Board will receive a hard copy from the Town Clerk's office and the Board will look over the sections.

Motion made by Lloyd Condon to adjourn. Seconded by Jon Pratt. All in favor. None opposed. Motion carries.

Respectfully Submitted:

Kandace Mattson

Attachments:

1. Numbering Subdivision Lots: